

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

AMTRUST INTERNATIONAL
UNDERWRITERS DAC,

Plaintiff,

v.

180 LIFE SCIENCES CORP.,

Defendant.

180 LIFE SCIENCES CORP.,

Counterclaimant,

v.

AMTRUST INTERNATIONAL
UNDERWRITERS DAC,

Counterdefendant.

Case No. 22-cv-03844-BLF (VKD)

**ORDER RE DEFENDANT'S MOTION
FOR PAYMENT OF COSTS**

Re: Dkt. No. 85

On May 9, 2024, following a case management conference, Judge Freeman issued an order referring a dispute “regarding the amount of Defense Costs the Insurers must advance to 180 Life under the policies as construed by this Court’s Order Granting 180 Life Sciences Corporation’s Motion for Partial Summary Judgment (ECF 75) issued on February 12, 2024.” Dkt. No. 82 at 1-2. Pursuant to that referral order, defendant 180 Life Sciences Corporation (“180 Life”) filed its motion for payment of costs. Dkt. No. 85. Plaintiff AmTrust International Underwriters DAC (“AmTrust”) opposes the motion.¹ The matter is fully briefed. Dkt. Nos. 93, 94. The Court heard

¹ 180 Life’s costs motion does not seek relief from insurer Freedom Specialty Insurance Company, which has since been dismissed pursuant to a stipulation and order. *See* Dkt. No. 99.

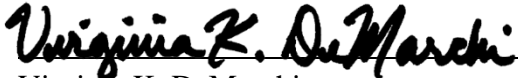
1 the motion on October 22, 2024. Dkt. No. 115.

2 Pursuant to Judge Freeman’s referral order, the only matter for the Court to determine is
3 whether, as a “non-dispositive pretrial matter,” AmTrust has paid what it must under a Directors
4 and Officers policy (“AmTrust policy”) to the extent its obligation to pay has already been
5 determined on the merits by Judge Freeman. *See* Dkt. No. 82. Based on the parties’ briefing on
6 180 Life’s costs motion, and as confirmed at the October 22, 2024 hearing, there is no dispute that
7 (1) AmTrust has paid to 180 Life \$2,569,206.51, which is the amount 180 Life advanced to Dr.
8 Krauss and Mr. Hornig in connection with their responses to the subpoenas they received in
9 connection with the SEC investigation, less the self-insured retention amount of \$150,000; (2) the
10 disputed amount that AmTrust has *not* paid is \$430,793.49; and (3) the disputed \$430,793.49
11 represents the legal fees that Dr. Krauss incurred in litigating the action she filed against 180 Life
12 in the Delaware Chancery Court to compel 180 Life to advance certain fees and expenses to her
13 (the “Advancement Action”). *See* Dkt. No. 93 at 7; Dkt. No. 94 at 2 n.3. 180 Life now seeks a
14 determination from the Court that AmTrust is obliged to pay the disputed \$430,793.49 as a
15 “Defense Cost” under the AmTrust policy and as determined by Judge Freeman’s February 12,
16 2024 summary judgment order. 180 Life also seeks a ruling that it is entitled to the payment of
17 prejudgment interest on all of the sums that Judge Freeman has determined AmTrust must pay.

18 The Court finds that 180 Life’s requested relief concerns matters that Judge Freeman was
19 not asked to decide, and did not decide, in the prior summary judgment proceedings. *See* Dkt. No.
20 52 at 12; Dkt. No. 59 at 19; Dkt. No. 60 at 1; Dkt. No. 75. Accordingly, the Court denies the relief
21 sought by 180 Life’s costs motion as beyond the scope of Judge Freeman’s May 9, 2024 referral
22 order.

23 **IT IS SO ORDERED.**

24 Dated: October 23, 2024

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26 
27 Virginia K. DeMarchi
28 United States Magistrate Judge